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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS E. SAULPAUGH, GREGORY L. SLAUGHTER,
MOHAMED M. ABDELAZIZ, BERNARD A. TRAVERSAT

Appeal 2008-005446
Application 09/653,215
Technology Center 2400

Decided: September 18, 2009

Before HOWARD B. BLANKENSHIP, THU A. DANG, and JAMES R.
HUGHES, *Administrative Patent Judges.*

HUGHES, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1-7, 9-23, 25-39, and 41-47. Claims 8, 24, and 40 have been indicated as allowable by the Examiner, and are not appealed. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Appellants' Invention

Appellants invented a client device and method for accessing services provided by a service provider in a distributed computing environment. The method allows the client to request and receive a credential that permits the client to access a portion of the services provided by the service provider.
(Spec. 13, l. to 15 l. 13.)¹

Claim

Independent claim 1 further illustrates the invention. It reads as follows:

1. A method for accessing a service in a distributed computing environment, comprising:

a client locating a first service within the distributed computing environment, wherein the first service provides a plurality of capabilities to clients executing in the distributed computing environment;

¹ We refer to Appellants' Specification ("Spec."), Appeal Brief ("App. Br.") filed September 14, 2006, and Reply Brief ("Reply Br.") filed April 3, 2008. We also refer to the Examiner's Answer ("Ans.") mailed March 5, 2008.

the client requesting a capability credential to allow the client access to a portion of the first service's capabilities, wherein said requesting a capability credential comprises the client indicating a set of desired capabilities;

the client receiving said capability credential,
wherein said capability credential indicates that the client has the
right to use only said portion of the first service's capabilities,
wherein said portion of the first service's capabilities is less than
a total of the plurality of capabilities provided by the first service;
and

the client using said capability credential to access one or more of said portion of the first service's capabilities.

References

The Examiner relies on the following references as evidence of unpatentability:

Adams US 6,718,470 B1 Apr. 6, 2004
(filed Jun. 5, 1998)

Steven E Czerwinski, Ben Y. Zhao, Todd D. Hodes, Anthony D. Joseph, & Randy H. Katz, *An Architecture For a Secure Service Discovery Service*, Mobicom 99, Proceedings of the 5th Annual ACM/IEEE International Conference on Mobile Computing and Networking, August 15th, 1999, XP000896069, pp 24-35. (hereinafter “Czerwinski”).

Rejections

The Examiner rejects claims 1, 2, 5, 6, 9-18, 21, 22, 25-34, 37, 38, and 41-47 under 35 U.S.C. § 102(e)² as anticipated by Adams.

² On the record before us we note that the Adams reference is a prior art reference under 35 U.S.C. § 102(e) not under 35 U.S.C. § 102(a) as stated in the Examiner's rejection. (Ans. 3; Final Office Action mailed April 4, 2006,

The Examiner rejects claims 3, 7, 19, 23, 35, and 39 under 35 U.S.C. § 103(a) as unpatentable over Adams.

The Examiner rejects claims 4, 20, and 36 under 35 U.S.C. § 103(a) as unpatentable over Adams and Czerwinski.

Appellants' Contentions

Appellants contend that the Examiner improperly rejected the claims (based on anticipation by Adams). Specifically, Appellants contend:

With respect to claims 1, 2, and 16 (and claims 17, 18, 31, 33, 34, and 47), that “Adams fails to disclose . . . receiving a capability credential that indicates that the client has the right to use only a portion of a service’s capabilities.” (App. Br. 14, 27(emphasis omitted).)

With respect to claim 5 (and claims 21 and 37), that “Adams fails to disclose . . . receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service’s capabilities.” (App. Br. 16, 30 (emphasis omitted).)

With respect to claim 6 (and claims 22 and 38), “Adams fails to disclose [that] the indication of the advertisement is the advertisement itself.” (App. Br. 20, 34 (emphasis omitted).)

With respect to claim 9 (and claims 25 and 41), “Adams does not disclose an advertisement that is a protected advertisement that describes the first service’s capabilities but does not provide an interface to the first service’s capabilities.” (App. Br. 21, 35 (emphasis omitted).)

p. 3.) Appellants do not raise or address this issue, but do argue the merits of the anticipation (§ 102) rejection. Accordingly, we amend the § 102 rejection *sua sponte* so that it is properly based on 35 U.S.C. § 102(e).

With respect to claims 10, 11, and 12 (and claims 26-28 and 42-44), that “Adams fails to disclose a client receiving a protected advertisement for the first service, wherein the protected advertisement indicates an address for sending the capability credential request message to.” (App. Br. 22, 36 (emphasis omitted).)

With respect to claim 13 (and claims 29 and 45), that “Adams fails to disclose . . . receiving a protected advertisement for the first service, wherein said protected advertisement indicates an authentication service and wherein said requesting a capability credential comprises the client requesting a capability credential from the authentication service.” (App. Br. 23, 37.)

With respect to claim 14 (and claims 30 and 46), that “Adams fails to disclose the authentication service determining a level of the first service’s capabilities that the client is authorized to use.” (App. Br. 24, 38 (emphasis omitted).)

With respect to claim 15, that “Adams fails to disclose wherein the portion of the first service’s capabilities that the capability credential indicates that the client has a right to use is the lesser of the level of the first service’s capabilities that the client is authorized to use and the set of desired capabilities.” (App. Br. 25 (emphasis omitted).)

Appellants also contend that the Examiner improperly rejected claims 3, 7, 19, 23, 35, and 39 as obvious in view of Adams. Appellants assert that Adams does not disclose or teach that the indication of the advertisement is a Uniform Resource Identifier (URI) to the advertisement. (App. Br. 35; Reply Br. 27.) Appellants also assert that “the Examiner has failed to provide a

proper motivation for modifying the system of Adams' to use a URI." (App. Br. 26; Reply 27.)

Appellants further contend that the Examiner improperly rejected claims 4, 20, and 36 as obvious in view of Adams and Czerwinski.

Appellants merely reiterate the reasons previously presented regarding the respective independent claims. (App. Br. 27, 30; Reply Br. 29.)

Examiner's Findings and Conclusions

The Examiner finds Adams anticipates Appellants' claims 1, 2, 5, 6, 9-18, 21, 22, 25-34, 37, 38, and 41-47. (Ans. 3-8.) The Examiner finds that Adams discloses each feature of Appellants' claimed invention, in particular:

With respect to claims 1, 2, 16-18, 31, 33, 34, and 47, Adams discloses receiving a capability credential indicating that the client has the right to use only a portion of a service's capabilities. (Ans. 4, 10.)

With respect to claims 5, 21, and 37, Adams discloses receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service's capabilities. (Ans. 4-5, 11.)

With respect to claims 6, 22, and 38, Adams describes the indication of the advertisement is the advertisement itself. (Ans. 5, 12.)

With respect to claims 9, 25, and 41, Adams discloses a protected advertisement that describes the first service's capabilities but does not provide an interface to the first service's capabilities. (Ans. 5, 12)

With respect to claims 10, 11, 12, 26-28, and 42-44, Adams discloses receiving a protected advertisement for the first service, wherein the protected

advertisement indicates an address for sending the capability credential request message to. (Ans. 5, 13)

With respect to claims 13, 29, and 45, Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an authentication service; and wherein requesting a capability credential comprises the client requesting a capability credential from the authentication service. (Ans. 6, 13.)

With respect to claim 14, 30, and 46, Adams discloses the authentication service determining a level of the first service's capabilities that the client is authorized to use. (Ans. 6-7, 14.)

With respect to claim 15, Adams discloses the portion of the first service's capabilities that the capability credential indicates the client has a right to use is the lesser of the level of the first service's capabilities that the client is authorized to use and the set of desired capabilities. (Ans. 7, 14.)

The Examiner finds Appellants' claims 3, 7, 19, 23, 35, and 39 obvious in view of Adams. The Examiner finds that Adams discloses that a subscriber communicates a request over a network to a website of a relying party (service provider), and that a URI (universal resource identifier) and a UUID (universal unique identifier) are well known for identifying a website. (Ans. 8-9, 15.)

The Examiner also finds Appellants' claims 4, 20, and 36 obvious in view of Adams and Czerwinski. (Ans. 9.)

ISSUES

Based on Appellants' contentions, as well as the findings and conclusions of the Examiner, the issues before us are as follows.

1. Did Appellants establish the Examiner erred in finding Adams discloses receiving a capability credential indicating that the client has the right to use only a portion of a service's capabilities?
2. Did Appellants establish the Examiner erred in finding Adams discloses receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service's capabilities?
3. Did Appellants establish the Examiner erred in finding Adams discloses that the indication of the advertisement is the advertisement itself?
4. Did Appellants establish the Examiner erred in finding Adams discloses a protected advertisement that describes the first service's capabilities but does not provide an interface to the first service's capabilities?
5. Did Appellants establish the Examiner erred in finding Adams discloses a protected advertisement that describes the first service's capabilities but does not provide an interface to the first service's capabilities?
6. Did Appellants establish the Examiner erred in finding Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an address for sending the capability credential request message to?
7. Did Appellants establish the Examiner erred in finding Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an authentication service; and wherein

requesting a capability credential comprises the client requesting a capability credential from the authentication service?

8. Did Appellants establish the Examiner erred in finding Adams discloses the authentication service determining a level of the first service's capabilities that the client is authorized to use?

9. Did Appellants establish the Examiner erred in finding Adams discloses that the portion of the first service's capabilities that the capability credential indicates the client has a right to use is the lesser of the level of the first service's capabilities that the client is authorized to use and the set of desired capabilities?

10. Did Appellants establish the Examiner erred finding Adams teaches that the indication of the advertisement is a Uniform Resource Identifier (URI) to the advertisement, and provided a proper motivation for modifying Adams?

FINDINGS OF FACT (FF)

Adams Reference

1. Adams describes a privilege management system for granting security privileges in a networked communication system. A relying party (service provider) in the networked system provides privilege criteria, and a subscriber unit (client) responsively provides particular privilege information – allowing selective privilege granting. (Col. 2, ll. 59-61; col. 3, ll. 27-44.)

2. Adams describes that the privilege information (provided by the subscriber) may include attribute certificates. Attribute certificates are well

known in the art, and may include data representing the privileges for specific services granted to a subscriber. (Col. 1, ll. 36-60; col. 2, ll. 13-40.)

3. Adams's system includes a privilege data selector. The privilege data selector selects and provides the appropriate privilege information – attribute certificates – to the relying party (service provider) based on the privilege (test) criteria provided by the relying party. (Col. 4, ll. 25-36.)

4. In operation, a subscriber (client) of Adam's system locates a website of a relying party (service provider), and requests access to particular privileges (privilege based operations, applications, or services) provided by the relying party. The relying party provides privilege test criteria data to the subscriber. The privilege data (attribute certificate) selector of the subscriber provides matching privilege data and/or attribute certificates to access the requested privileges. (Col. 5, ll. 10-32; col. 6, l. 31 to col. 7, l. 9.)

5. The privileges requested and received by the subscriber (client) may represent only a portion of the privilege based operations, applications, or services provided by the relying party (service provider). (Abstract, col. 1, ll. 36-60; col. 2 ll. 18-40, 59-61; col. 4, ll. 25-36; col. 5, ll. 10-32, 37-41; col. 6, l. 31 to col. 7, l. 9.) The “subscriber is allowed specific access to certain information controlled by a relying party. . . . a subscriber unit may only gain access to a specific site or section within a site.” (Col. 1, ll. 56-60.) The “attribute certificate of the relying party may contain test criteria data indicating data representing a required membership privilege to gain access to a particular software application controlled by the relying party.” (Col. 5, ll. 37-41.)

6. Adams also describes a system including a centralized privilege data selector (authentication service). The centralized privilege data selector receives privilege test criteria data and identification data from the relying party, and also receives identification data from the subscriber(s). The centralized privilege data selector selects and matches the appropriate subscriber privilege information (and/or attribute certificates) with the relying party privilege test criteria data and identification data. The centralized privilege data selector sends the matching data, as pre-qualification privilege data, to the subscribers that then send the information to the relying party to access the privilege based application. (Col. 6, l. 31 to col. 7, l. 8)

Appellants' Specification

7. Appellants' Specification explains that a Uniform Resource Identifier (URI) is synonymous with a Uniform Resource Locator (URL) used to locate, identify and access websites as is well known in the art. (Spec. 25, ll. 9-15; 58, ll. 23-26.)

PRINCIPLES OF LAW

Anticipation

Anticipation is a question of fact. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). Under 35 U.S.C. § 102, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of Cal.*, 814 F.2d 628, 631 (Fed. Cir. 1987); *see also Perricone v. Medicis Pharm. Corp.*, 432 F.3d 1368, 1375 (Fed. Cir. 2005).

Obviousness

A claimed invention is not patentable if the subject matter of the claimed invention would have been obvious to a person having ordinary skill in the art. 35 U.S.C. § 103(a); *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007); *Graham v. John Deere Co.*, 383 U.S. 1, 13 (1966).

In *KSR*, the Supreme Court emphasized “the need for caution in granting a patent based on the combination of elements found in the prior art,” and stated that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR*, 550 U.S. at 415-16. The Court explained:

When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.

Id. at 417. The operative question is thus “whether the improvement is more than the predictable use of prior art elements according to their established functions.” *Id.*

Consistent with *KSR*, the Federal Circuit recently recognized that “[a]n obviousness determination is not the result of a rigid formula disassociated from the consideration of the facts of a case. Indeed, the common sense of those skilled in the art demonstrates why some combinations would have been obvious where others would not.” *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*,

485 F.3d 1157, 1161 (Fed. Cir. 2007) (citing *KSR*, 550 at 416). The Federal Circuit relied in part on the fact that *Leapfrog* had presented no evidence that the inclusion of a reader in the combined device was “uniquely challenging or difficult for one of ordinary skill in the art” or “represented an unobvious step over the prior art.” *Id.* at 1162.

ANALYSIS

We address only those arguments that Appellants present in the Briefs. Arguments that Appellants could have made but chose not to make in the Briefs are waived. *See* 37 C.F.R. § 41.37(c)(1)(vii)

Rejection of the Claims 1, 2, 16-18, 31, 33, 34, and 47 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses receiving a capability credential indicating that the client has the right to use only a portion of a service’s capabilities.

We initially note that the independent claims (claims 1, 17, and 33) recite receiving the capability credential, “wherein said capability credential indicates that the client has the right to use only said portion of the first service’s capabilities, wherein said portion of the first service’s capabilities is less than a total of the plurality of capabilities provided by the first service.” (App. Br. 42 (claim 1).) This “wherein” claim language merely states the result of a functional limitation – specifically, receiving the capability credential. The description of the capability credential does not affect the scope of this functional claim limitation.

These wherein-clauses are analytically similar to whereby-clauses in that they merely specify an intended result of a method or functional limitation. “A whereby clause in a method claim is not given weight when it simply expresses the intended result of a process step positively recited.” *Minton v. Nat'l Ass'n of Securities Dealers, Inc.*, 336 F.3d 1373, 1381 (Fed. Cir. 2003); *see Texas Instruments, Inc. v. U.S. International Trade Comm.*, 988 F.2d 1165, 1172 (Fed. Cir. 1993) (“A ‘whereby’ clause that merely states the result of the limitations in the claim adds nothing to the patentability or substance of the claim.”). We understand, however, that “when the ‘whereby’ clause states a condition that is material to patentability, it cannot be ignored in order to change the substance of the invention.” *Hoffer v. Microsoft, Corp.*, 405 F.3d 1326, 1329 (Fed. Cir. 2005).

Here, Appellants’ claims recite that the capability credential indicates the users’ rights to use the service’s capabilities (indicates the user’s privileges), and that these capabilities are less than the complete set of available capabilities. As a general proposition, merely reciting that received data (the credential) has particular attributes or indicates particular information essentially constitutes non-functional descriptive material as it does not further limit the claimed invention either functionally (e.g., claim 1) or structurally (e.g., claim 17). Such non-functional descriptive material does

not patentably distinguish over prior art that otherwise renders the claims unpatentable. *In re Ngai*, 367 F.3d 1336, 1339 (Fed. Cir. 2004).³

Even if we were to give weight to the non-functional descriptive material, we agree with the Examiner that Adams discloses each feature of Appellants' claims 1, 2, 16-18, 31, 33, 34, and 47, in particular, a capability credential indicating that the client has the right to use only a portion of a service providers services. Adams describes attribute certificates that include data representing the privileges for specific services granted to a subscriber, these privileges may represent only a portion of the privilege based services provided by a service provider. (FF 2, 5.) Specifically, Adams describes a privilege management system wherein a subscriber (client) locates and accesses privileged services on a website of a service provider. The subscriber requests access to particular privilege based services provided by the service provider. The service provider provides privilege test criteria data to the subscriber, or a centralized privilege data selector. The subscriber, in turn, provides particular privilege information to the service provider through a privilege data selector of the subscriber, which provides matching privilege data and/or attribute certificates to the service provider. Alternately, the centralized privilege data selector selects and matches appropriate subscriber

³ See also *Ex parte Nehls*, 88 USPQ2d 1883, 1887-89 (Bd. Pat. App. & Int. 2008) (precedential) (discussing cases pertaining to non-functional descriptive material); *Ex parte Mathias*, No. 2005-1851 (Bd. Pat. App. & Int. Aug. 19, 2005), aff'd. *In re Mathias*, No. 2006-1103, 2006 WL 2433879 (Fed. Cir. Aug. 17, 2006) (Rule 36, unpublished); *Ex parte Curry*, No. 2005-0509 (Bd. Pat. App. & Int. Jun. 30, 2005), aff'd. *In re Curry*, No. 2006-1003 (Fed. Cir. Jun. 12, 2006) (Rule 36, unpublished) (both cases treating data as nonfunctional descriptive material).

privilege information and/or attribute certificates, and sends the matching pre-qualification privilege data to the subscriber. The subscriber then sends the pre-qualification privilege data to the service provider. (FF 1-4, 6.) Thus, Adams discloses a client (subscriber) receiving a capability credential (privilege information and/or attribute certificates) indicating that the client has limited access (privileges) – i.e., the right to use only a portion of a service’s capabilities.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 1, 2, 16-18, 31, 33, 34, and 47. Accordingly, we will sustain the Examiner’s rejection of these claims.

Rejection of the Claims 5, 21, and 37 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service’s capabilities.

Appellants make the same arguments with respect to claims 5, 21, and 37 – that Adams does not disclose receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service’s capabilities (App. Br. 16, 30), nor does Adams disclose that an indication of the set of desired capabilities comprises an indication of the advertisement (App. Br. 19, 33). We find Appellants’ arguments unpersuasive.

Here, Appellants’ claims recite that the advertisement describes the portion of the first service’s capabilities. As we explained with respect to

claim 1 *supra*, this language is non-functional descriptive material and does not further limit the claimed invention either functionally or structurally.

We determine the scope of the claims in patent applications not solely based on the claim language, but upon giving claims “their broadest reasonable interpretation consistent with the specification” and “in light of the specification as it would be interpreted by one of ordinary skill in the art.” *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). Appellants describe an advertisement as follows: “Service advertisements may be data representational language documents that provide access information for corresponding services.” (Spec. 14, ll. 13-14.) Accordingly, we give the term “advertisement” its broadest reasonable interpretation and find that receiving an advertisement describing a service’s capabilities would be commonly understood to mean receiving a description, in any form, of a service and its capabilities (functionality). This interpretation is consistent with Appellants’ Specification.

We agree with the Examiner that Adams discloses each feature of Appellants’ claims 5, 21, and 37, in particular, receiving an advertisement for a service (which describes the service’s capabilities). Adams describes locating and accessing a website. (FF 4; col. 5, ll. 13-18.) As is well known in the art, websites provide multimedia content describing, for example, the services provided by the website/service provider – i.e., an advertisement of the services. Moreover, as recited in Appellants’ claim 5, an indication (request) by a client for a desired set of capabilities (services) is an indication of the advertisement. It follows, that the subscriber requesting access to particular privilege based services (requesting a capability credential) – as

recited in claim 1, and discussed *supra* – is an indication (acknowledgement) of the advertisement. As explained by the Examiner, “in order for the subscriber to request [the] authentication credential, the subscriber must be aware of the service provided by the relying party and the capability of that service prior to using it.” (Ans. 11.) Thus, Adams discloses an advertisement for a service describing the service’s capabilities.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 5, 21, and 37. Accordingly, we will sustain the Examiner’s rejection of these claims.

Rejection of the Claims 6, 22, and 38 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses that the indication of the advertisement is the advertisement itself.

Appellants assert that Adams does not disclose an indication of the advertisement is the advertisement itself. As we explained *supra* with respect to claims 5, 21, and 37, Adams discloses accessing content on a website, i.e., an advertisement. (FF 4; col. 5, ll. 13-18.) Thus, a website may function as an indication of an advertisement, and Adams discloses accessing such a website (and advertisement).

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 6, 22, and 38. Accordingly, we will sustain the Examiner’s rejection of these claims.

Rejection of the Claims 9, 25, and 41 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses a protected advertisement that describes the first service’s capabilities but does not provide an interface to the first service’s capabilities.

Appellants assert that Adams does not disclose a protected advertisement that describes a service’s capabilities, but does not provide access to the capabilities. Here, Appellants’ claims recite that the advertisement describes the first service’s capabilities. As we explained with respect to claims 1 and 5 *supra*, this language is non-functional descriptive material and does not further limit the claimed invention either functionally or structurally.

Also, as we explained *supra* with respect to claim 5, Adams discloses accessing content on a website, i.e., an advertisement describing a service’s capabilities. (FF 4; col. 5, ll. 13-18.) Adams describes that the subscriber accesses the website in order to request “access to another application controlled by” the service provider (col. 5, ll. 16-17) – i.e., a separate privileged application. Thus, the advertisement (website) may advertise the services available from the service provider, but the subscriber must request access to the advertised services – the advertisement does not provide an interface (direct access) to the privileged services, i.e., the website is a protected advertisement.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 9, 25, and 41. Accordingly, we will sustain the Examiner’s rejection of these claims.

Rejection of the Claims 10, 11, 12, 26-28, and 42-44 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an address for sending the capability credential request message to. Appellants assert that Adams does not disclose a protected advertisement that indicates an address where the request is to be sent. Here, Appellants' claims recite that the advertisement indicates an address for sending the capability credential request message to. As we explained with respect to claim 1 *supra*, this language is non-functional descriptive material and does not further limit the claimed invention either functionally or structurally.

Even if we were to give weight to the non-functional descriptive material, as we explained *supra* with respect to claims 9, 25, and 41, Adams discloses a protected advertisement that allows a subscriber to request a separate privileged service. (FF 4; col. 5, ll. 13-18.) Adams describes communication over a network (e.g., the internet) among the subscriber (client), relying party (service provider), and the privilege data selector. (FF 1-4, 6; col. 5, ll. 13-18.) Thus, as in any network, each node must have an address to facilitate communication. Here, Adams describes accessing a website, requesting access to a separate application, and that the request may be sent to the service provider or a centralized privilege selector. (FF 1-4, 6; col. 5, ll. 13-18.) In the case of the centralized privilege selector, Adams also describes the relying party (service provider) providing “relying party identification data.” (FF 6; col. 6, ll. 55-56.) Thus, we find Adams discloses

a protected advertisement that indicates an address where the privilege request (capability credential request) is to be sent.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner's rejection of claims 10, 11, 12, 26-28, and 42-44. Accordingly, we will sustain the Examiner's rejection of these claims.

Rejection of the Claims 13, 29, and 45 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an authentication service; and wherein requesting a capability credential comprises the client requesting a capability credential from the authentication service.

Appellants assert that Adams does not disclose receiving a protected advertisement indicating an authentication service and requesting a capability credential from the authentication service. As we explained *supra* with respect to claims 9-12, 25-28, and 41-44, Adams discloses a protected advertisement. (FF 4.) Adams also describes a centralized privilege selector, i.e., an authentication service. (FF 6.) The subscriber (client) requests access to privileged services, and provides identification information to the centralized privilege selector. (FF 4, 6.) The centralized privilege selector matches privilege data and/or attribute certificates and sends the matching pre-qualification privilege data to the subscriber. (FF 6.) Thus, we find Adams discloses receiving a protected advertisement indicating an authentication service and requesting a capability credential from the authentication service.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 13, 29, and 45. Accordingly, we will sustain the Examiner’s rejection of these claims.

Rejection of the Claims 14, 15, 30, and 46 under 35 U.S.C. § 102(e)

We decide the question of whether Appellants establish the Examiner erred in finding Adams discloses that the portion of the first service’s capabilities that the capability credential indicates the client has a right to use is the lesser of the level of the first service’s capabilities that the client is authorized to use and the set of desired capabilities.

Appellants assert that Adams does not disclose the authentication service determining a level of the first service’s capabilities (service providers services) that the client is authorized to use. As we explained *supra* with respect to claims 13, 29, and 45, Adams discloses a centralized privilege selector (i.e., an authentication service), that matches privilege data and/or attribute certificates and sends the matching pre-qualification privilege data to the subscriber. The subscriber then sends the pre-qualification privilege data to the relying party (service provider) in order to access the requested services. (FF 6.) Thus, we find Adams discloses the authentication service determining the service providers services (privileges) that the client is authorized to use.

Appellants also make an additional argument with respect to claims 14, 30, and 46, as well as claim 15 – that Adams does not disclose the portion of the service’s capabilities that the capability credential indicates that the client has a right to use is not greater than the set of desired capabilities (is the lesser

of the level of the service’s capabilities that the client is authorized to use and the set of desired capabilities). (App. Br. 25.) We also find this argument unpersuasive.

Here, as with claim 1, Appellants’ claims recite that the capability credential indicates the users’ rights to use the service’s capabilities that are less than the complete set of available capabilities. As we explained with respect to claim 1 *supra*, this language is non-functional descriptive material and does not further limit the claimed invention either functionally or structurally.

Even if we were to give weight to the non-functional descriptive material, as we explained *supra* with respect to claims 1, 2, 16-18, 31, 33, 34, and 47, Adams describes attribute certificates that include data representing the privileges for specific services granted to a subscriber, which may represent only a portion of the privilege based services provided by a service provider – i.e., a capability credential indicating that the client has the right to use only a portion of a service providers services. (FF 2, 5.) Here, as explained by the Examiner, the pre-qualification privilege data sent from the centralized privilege selector to the subscriber and sent from the subscriber to the relying party (service provider) contains only the set of privileges that the subscriber is authorized (by the relying party) to use in accessing the relying party’s services. (FF 6; Ans. 14.) Thus, we find Adams discloses a capability credential (privilege information) indicating that the client has limited access – the right to use less than the complete set of available capabilities.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner's rejection of claims 14, 15, 30, and 46. Accordingly, we will sustain the Examiner's rejection of these claims.

*Rejection of the claims 3, 7, 19, 23, 35, and 39 under
35 U.S.C. § 103(a)*

We decide the question of whether Appellants establish the Examiner erred in finding Adams teaches that the indication of the advertisement is a Uniform Resource Identifier (URI) to the advertisement, and provided a proper motivation for modifying Adams.

Appellants assert that Adams does not teach a URI, and that the Examiner does not provide a proper motivation for modifying Adams to include a URI. (App. Br. 26, 35; Reply Br. 27.) As we explained *supra* with respect to claims 9-12, 25-28, and 41-44, Adams discloses accessing a website. (FF 4.) As is well known in the art, websites are located and accessed via a uniform resource locator or URL. Appellant admits that a URI and a URL are equivalent. (FF 7.) Thus, as explained by the Examiner (Ans. 8-9), one of skill in the art would understand that Adams teaches a URI. No additional rationale for modifying the reference is necessary because the Examiner does not modify the Adams reference. The Examiner merely points out that a URI and URL are equivalent, and that accessing a website requires a URL or URI. We also note that, in light of *KSR* and *Leapfrog*, the evidence provided by the Examiner supports a finding that combining familiar elements according to known methods is obvious when it does no more than yield predictable results.

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 3, 7, 19, 23, 35, and 39. Accordingly, we will sustain the Examiner’s rejection of these claims.

*Rejection of the Claims 4, 20, and 36 under
35 U.S.C. § 103(a)*

Appellants briefly contend that the Examiner improperly rejected claims 4, 20, and 36 as obvious in view of Adams and Czerwinski, reiterating the reasons previously presented regarding the respective independent claims from which claims 4, 20, and 36 depend. (App. Br. 27; Reply Br. 29.) However, this statement is insufficient to rise to the level of a separate argument requiring our consideration. *See Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir 2008) (“When the appellant fails to contest a ground of rejection to the Board, section 1.192(c)(7) [(now section 41.37(c)(1)(vii))] imposes no burden on the Board to consider the merits of that ground of rejection. . . . [T]he Board may treat any argument with respect to that ground of rejection as waived.”). *See also In re Guess*, 2009 WL 1598475 at *1 (Fed. Cir. June 9, 2009) (“Appellants failed to argue that any limitations unique to [the claims] survive [the rejection]. Appellants have therefore waived any such arguments on appeal.”) (citing *In re Watts*, 354 F.3d 1362, 1367 (Fed. Cir. 2004)).

For all the reasons noted above, Appellants fail to demonstrate error in the Examiner’s rejection of claims 4, 20, and 36. Accordingly, we will sustain the Examiner’s rejection of these claims.

CONCLUSION OF LAW

On the record before us, we find Appellants have not established the Examiner erred in finding: (1) Adams discloses receiving a capability credential indicating that the client has the right to use only a portion of a service's capabilities; (2) Adams discloses receiving an advertisement for the first service, wherein the advertisement describes the portion of the first service's capabilities; (3) Adams discloses that the indication of the advertisement is the advertisement itself; (4) Adams discloses a protected advertisement that describes the first service's capabilities but does not provide an interface to the first service's capabilities; (5) Adams discloses a protected advertisement that describes the first service's capabilities but does not provide an interface to the first service's capabilities; (6) Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an address for sending the capability credential request message to; (7) Adams discloses receiving a protected advertisement for the first service, wherein the protected advertisement indicates an authentication service; and wherein requesting a capability credential comprises the client requesting a capability credential from the authentication service; (8) Adams discloses the authentication service determining a level of the first service's capabilities that the client is authorized to use; (9) Adams discloses that the portion of the first service's capabilities that the capability credential indicates the client has a right to use is the lesser of the level of the first service's capabilities that the client is authorized to use and the set of desired capabilities; and (10) Adams teaches that the indication of the

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advertisement is a Uniform Resource Identifier (URI) to the advertisement, and provided a proper motivation for modifying Adams.

DECISION

We affirm the Examiner's rejections of claims 1, 2, 5, 6, 9-18, 21, 22, 25-34, 37, 38, and 41-47 under 35 U.S.C. § 102(e).

We affirm the Examiner's rejections of claims 3, 4, 7, 19, 20, 23, 35, 36, and 39 under 35 U.S.C. § 103(a).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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